

ASSEMBLY BILL

No. 870

Introduced by Assembly Member Huber

February 26, 2009

An act to amend Section 626.10 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 870, as introduced, Huber. Crime: school grounds: prohibited weapons.

Existing law makes it a misdemeanor or a felony for a person, subject to exceptions, to bring or possess any of specified weapons, including dirks, daggers, ice picks, certain knives, unguarded razor blades, tasers, stun guns, instruments expelling metallic projectiles, and spot marker guns, upon the grounds of, or within, any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

This bill would also make it a misdemeanor or felony to bring or possess a razor blade or box cutter upon those school grounds, except as provided. Because this bill would expand the scope of existing crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 626.10 of the Penal Code is amended to read:

626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses ~~any~~ a dirk, a dagger, an ice pick, a knife having a blade longer than 2 ½ inches, a folding knife with a blade that locks into place, a razor with an unguarded blade, a razor blade, a box cutter, a taser, or a stun gun, as defined in subdivision (a) of Section 244.5, ~~any~~ an instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or ~~any~~ a spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2 ½ inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 2 ½ inches ~~or~~, a razor with an unguarded blade, *a razor blade*, or *a box cutter* upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than 2 ½ inches, ~~or~~ a razor with an unguarded blade, *a razor blade*, or *a box cutter* upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than 2 ½ inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or

1 she knows, or has reasonable cause to know, the person is
2 prohibited from bringing or possessing the weapon upon the
3 grounds of, or within, the school.

4 (h) As used in this section, “dirk” or “dagger” means a knife or
5 other instrument with or without a handguard that is capable of
6 ready use as a stabbing weapon that may inflict great bodily injury
7 or death.

8 (i) Any person who, without the written permission of the
9 college or university president or chancellor or his or her designee,
10 brings or possesses a less lethal weapon, as defined in Section
11 12601, or a stun gun, as defined in Section 12650, upon the grounds
12 of or within, a public or private college or university campus is
13 guilty of a misdemeanor.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.